

1 So when I talk to you about
2 modifying stuff, I don't want to talk -- like
3 I'm not trying to talk down to you, but I got
4 to try to make you understand the same things
5 that I understand.

6 Q. Yeah.

7 A. So modifying a trigger is as
8 simple as knowing how to take a weapon apart
9 beyond a standard field strip, which is what
10 you do to clean it, and actually taking the
11 internal trigger and hammer and/or striker lock
12 mechanisms and swapping them out. Now, there
13 are a lot of aftermarket products that are as
14 simple as you take your gun apart, you remove
15 one piece by taking two pins out and then you
16 put in a similar but oftentimes more highly
17 polished or finely-tuned identical piece and
18 the weapon will operate more smoothly.

19 That's not forbidden in our
20 policy, but it is set up so the only people
21 that are authorized to do that are department
22 armorers, because department armorers are
23 qualified to do it. We're not gunsmiths but
24 we're qualified to change out parts. We're not

1 authorized to weld or fix broken parts, we only
2 can replace them, right, but we also are
3 qualified to replace drop-in aftermarket parts
4 if need be and if approved.

5 So when I inspected McMahon's
6 rifle and found that he had modified his own
7 trigger by putting in a different trigger
8 group, whether it's drop-in or a couple of
9 pins, I was most concerned with whether he was
10 qualified to have done that work, so I asked
11 him if he were a department armorer or an
12 armorer certified for the Colt M4 or any
13 variants, which is what type of rifle he had,
14 and he told me that he was.

15 So then I wasn't so worried
16 about the trigger modification but I became
17 more interested in getting him onto our armorer
18 staff because we were very shorthanded, and as
19 a result of being shorthanded sometimes things
20 like missing that endplate on his Glock
21 happened.

22 Now, I wanted him to come onto
23 the armorer staff so we would have more
24 personnel to do better inspections and assist

1 with weapons maintenance. So I asked him to
2 drop in my box all of his qualifications as
3 armorer so I could get them on file and put him
4 on the team. So that's what happened with
5 that.

6 Did I answer your question?

7 Q. You did, yeah.

8 So when you were inspecting his
9 weapon, how did you know that the trigger had
10 been modified? Did it look different?

11 A. Well, it was not a Colt M4. I
12 don't remember what exactly the brand was of
13 his rifle, but it was a clone. They call them
14 clones because they're identical in
15 manufacturing, just made by a different
16 company.

17 And I recognized that the
18 trigger, he had a flat trigger, which is often
19 used in competition, sometimes used in the
20 field by different operators, but usually not
21 stock on an off-the-shelf patrol rifle. And
22 just by the visual inspection alone I suspected
23 that it was an aftermarket trigger; and when I
24 asked him, he said it was and that he put it in

1 his rifle.

2 Q. When you have the flat -- you
3 said the flat trigger, does it fire differently
4 or like is it harder to fire, easier to fire,
5 slow, faster? What's the difference?

6 A. It's neither. It's simply a
7 different feel on the tip of your finger, and
8 some people prefer a flat trigger and some
9 people prefer a curved trigger, but I don't
10 think that it does anything by the shape of the
11 trigger that actually assists in its operation,
12 it's just individual preference.

13 Q. You were talking about how you
14 were interested in getting McMahon on -- you
15 know, as one of the people who inspected the
16 weapons because you -- you know, like you felt
17 like maybe it would have caught like more
18 things, like the endplate. Did you feel that
19 when you were in that role, that position at
20 Vallejo, that you had adequate support to do
21 your job effectively?

22 A. I think that in Vallejo, based
23 on the unfortunate circumstance of how many
24 officers we had versus the workload, which I

1 think if you compared the department at least
2 at the time that I worked there, we had one of
3 the smallest numbers of officers per capita of
4 most cities probably in the country, and of the
5 personnel that were there, most of us had
6 numerous collateral duties, "collateral"
7 meaning like I was on the SWAT team, I was in
8 charge of training the SWAT team, I was on the
9 range master -- I had the range master position
10 for a while, which meant I was responsible for
11 all the weapons, their maintenance, their
12 procurement, their inspections, and the
13 personnel that were to do it.

14 For a while I was part of the
15 bike patrol team that, you know, we had to do
16 that as a collateral duty on an overtime basis.
17 I used to also assist as the canine coordinator
18 in joint capacity with my brother. I was one
19 of the weaponless defense instructors and had
20 to coordinate the training with that. I was on
21 the Critical Review Incident Board teams. I
22 had to go to the -- and I am not -- I am not an
23 anomaly when it comes to that level of
24 responsibility for most employees at the Police

1 Department.

2 So I'm not saying we didn't have
3 the support, I'm saying we really didn't have
4 the personnel to get all those jobs done as
5 well as I would have liked to.

6 Q. Okay.

7 A. So in my assignments, when I
8 found problems, most of the time I didn't look
9 at the officer as at fault, I looked at for how
10 I could improve what I knew we were doing so
11 that that problem wouldn't continue.

12 Q. Well, one of the things that
13 struck me is when you were talking about your
14 experience with your first officer-involved
15 shooting in Concord and how you were
16 commiserating with a fellow officer who had a
17 similar experience and then you witnessed that
18 in other officers at Vallejo.

19 Did Vallejo have the mental
20 health treatment or some sort of like person
21 that the officers could talk to for support
22 when they were involved in those, you know,
23 traumatic life-and-death experiences?

24 A. Absolutely, they did. And

1 through no fault of the department is it a
2 difficult experience. I don't care who you
3 are, whether you work for a Police Department
4 or not or you're in the military, the situation
5 of being put where either you may lose your
6 life, an innocent person you're trying to
7 protect may lose their life or even the suspect
8 you're trying to take in peacefully, if they
9 cooperate, may lose their life as a result of
10 whatever the suspect's actions are, which
11 aren't in your control, that's a -- for lack of
12 a better -- without trying to sound like a
13 drama queen, that's a harrowing experience.

14 Q. Yeah.

15 A. And the department does its
16 best, they give you a chance to speak with a
17 psychologist, and they have -- nowadays they
18 have critical incident debriefs that all the
19 people that are involved, including dispatchers
20 and/or even medics sometimes, can take, you
21 know, take part in. But the problem with the
22 whole situation that causes the stress, I
23 think, in one of my -- in my personal opinion,
24 is that you're not as free to talk to anybody

1 as most other people would be because of
2 litigation, ongoing investigations, and, you
3 know, you don't want to be tampering with other
4 folk's statements and interviews don't always
5 get done immediately and the case is still
6 under investigation for months, so you really
7 don't have many people you can talk to.

8 And then you wind up in
9 situations like this, where 23 years later I'm
10 still discussing officer-involved shooting. A
11 lot of us won't even talk to the people at home
12 about it for fear of getting them subpoenaed
13 into court. Not that you're going to say
14 anything wrong, you just don't want other
15 people to have to deal with all of the stuff
16 that we're going to want to -- that we don't
17 want to but we willingly participate in, like
18 this interview.

19 So it's hard. And I don't know
20 that any level of mental health assistance
21 would mitigate that, because that's just a
22 challenge that has to be dealt with. I don't
23 think in any way that that makes -- you know, I
24 think there is plenty of opportunities for

1 officers to get mental health help and in my
2 personal opinion there always has been.

3 Q. Do you think that the level of
4 responsibilities that individual officers had,
5 you know, very extensive according to what you
6 were saying, do you think that that puts a --
7 has any impact on an officer's ability to do
8 their job the best they can?

9 MS. KNIGHT: Objection, calls
10 for speculation, vague, ambiguous.

11 BY MS. LORENTSON:

12 Q. You can still answer.

13 A. I never saw an officer conduct
14 themselves in any way that was less than the
15 best of their abilities, but I do believe that
16 the nature of the department staffing levels
17 and workload was very taxing.

18 Q. There were some notes about, you
19 know, your efforts surrounding that, and can
20 you tell me like what, if anything, you did to
21 try and address the staffing concerns at
22 Vallejo?

23 We just talked about Ryan
24 McMahon, adding him onto the unit that

1 inspected guns, but beyond that.

2 A. Well, the department had several
3 staff meetings regarding recruitment and
4 personnel. There was -- I mean, a lot of
5 this -- a lot of this started really post 2012
6 when -- well, the city went bankrupt in 2007ish
7 and we lost a ton of officers as a result of
8 that and the city's contract disputes and/or
9 failure to have contracts, pay cuts, those were
10 all obstacles to us recruiting and retaining
11 personnel.

12 And of those that stayed, the
13 mandatory overtime that occurred daily on every
14 squad also became a deterrent for people to
15 want to come work here. We addressed those
16 issues in staff meetings almost every meeting
17 with trying to come up with new recruitment and
18 retention strategies.

19 But I do believe based on all my
20 training in supervisor schools that that is not
21 a unique problem to the City of Vallejo, that
22 has been a problem, and you see it in the news
23 all the time now, especially post the George
24 Floyd stuff, good luck retaining and recruiting

1 people that want to do this job based on the
2 nature of the perception of it and the exposure
3 to liabilities that it brings versus the
4 benefits you get out of it.

5 Q. When you brought up at staff
6 meetings, you know, the solutions and the ways
7 that you could improve the staffing issues,
8 were the people in the leadership positions
9 receptive?

10 A. Absolutely. Absolutely. I just
11 don't think -- I think given -- again, I don't
12 want to say anything out of speculation. My
13 belief is given the situation of society's
14 perception and treatment of police officers and
15 the individual experience of Vallejo police
16 officers with the pay cuts and benefits cuts, I
17 think that the people that wanted to retain and
18 recruit officers were more than hopeful but I
19 feel like their hands were a little tied.

20 Q. Understood. So we've heard a
21 lot of talk about a Taco Bell incident. What
22 happened at Taco Bell?

23 A. An armed suspect was shot and
24 killed by the Vallejo Police Department.

1 Q. There was -- I will admit to you
2 the depositions are running together for me,
3 but there was one individual that talked about
4 rumors involving some supervisors and Netflix.
5 Have you heard about that?

6 A. Netflix?

7 Q. Uh-huh.

8 A. I have no idea what you're
9 talking about.

10 Q. So there was a witness who had
11 talked about an allegation that when the Taco
12 Bell shooting was occurring or before it had
13 occurred, at some critical point, there was an
14 inability to reach certain supervisors because
15 they were watching television at the
16 headquarters.

17 A. I am unaware of any such
18 allegation.

19 MS. KNIGHT: Hey, Amanda, it's
20 about lunchtime over here. If you
21 don't have a lot, I would want to power
22 through, but if you think you're going
23 to have, you know, an hour plus, then
24 now might be a good time to --

1 MS. LORENTSON: Oh, we'll take a
2 lunch break.

3 MS. KNIGHT: Thank you.

4 THE WITNESS: Okay. Thank you.

5 - - -

6 (Whereupon there was a luncheon
7 recess from 12:25pm PST/3:25pm EST to
8 1:00pm PST/4:00pm EST.)

9 - - -

10 BY MS. LORENTSON:

11 Q. All right. So I can't remember
12 where we left off, but I've been unfairly
13 bouncing around anyway, so I guess it doesn't
14 really matter.

15 - - -

16 (Discussion held off the
17 record.)

18 - - -

19 BY MS. LORENTSON:

20 Q. Let's see, Mr. Tribble, you
21 separated from Vallejo or retired in 2021.
22 What were the terms of your separation? Was
23 this you retired, getting retirement benefits
24 or were there any terms you negotiated with the

1 city when you left?

2 A. No, ma'am. I simply turned 50
3 and thought it was about time I get to have a
4 weekend or a night off or a holiday to be with
5 my family after 27 years of not.

6 Q. You know, and I don't mean any
7 disrespect by asking this question but I forgot
8 to ask when we started, during the break did
9 you have the opportunity or did you review any
10 documents?

11 A. No, I did not. I ate a burger.

12 Q. Okay. Good. And did you
13 discuss the substance of your deposition with
14 anybody?

15 MS. KNIGHT: Other than counsel.

16 THE WITNESS: No.

17 BY MS. LORENTSON:

18 Q. Okay. Without getting into what
19 you discussed with counsel, did you discuss
20 your deposition with counsel?

21 MS. KNIGHT: Objection,
22 attorney-client privilege. I think the
23 substance of discussions are off
24 limits. If you would like, you can ask

1 him if he talked to me without touching
2 the subject and how long.

3 MS. LORENTSON: I think that
4 speaks for itself.

5 BY MS. LORENTSON:

6 Q. Okay. So who is Travis
7 Aspegren? Now I know I'm mispronouncing that,
8 but do you know who that is?

9 A. You're asking me?

10 Q. Yes.

11 A. Travis Aspegren I think is --

12 Q. Yes, Aspegren, yes.

13 A. Yep. He was an employee with
14 the Vallejo Police Department.

15 Q. What was his role as an
16 employee?

17 A. I know he was a patrol officer
18 for a while. I think he may have been an FTO
19 but I'm not sure, which would be a field
20 training officer.

21 I don't remember if he was
22 actually on the SWAT team or not. I know when
23 he worked for Benicia PD and we were a joint
24 team, he was on the SWAT team, because it was a

1 regional team comprised of Vallejo and Benicia,
2 and I don't remember if he got back on to it
3 when he was in Vallejo.

4 Q. You know, just to paint broadly
5 with -- you know, paint the testimony that
6 you've given so far with broad strokes, is it
7 fair to say that whenever you bent someone's
8 badge, they were present for that, so the
9 individual officer was present when you bent
10 their badge?

11 A. Yes.

12 Q. So if Travis talked about a
13 practice of hanging uniforms on lockers after a
14 fatal shooting and that the badges would be
15 somehow -- his words were, "someone would bend
16 the badges somehow during the middle of the
17 night," who do you believe would be the
18 officers that were engaging in that? Have you
19 heard about that too?

20 A. This is the first time I've ever
21 heard anything like that.

22 Q. Do you have any reason to doubt
23 that that's true?

24 A. I don't know -- the only reason

1 I could doubt that that's true is that I have
2 never heard of it, but I would never even begin
3 to allude that Travis Aspegren would be
4 untruthful, so.

5 Q. Now, Travis also testified -- he
6 was interviewed by Giordano. Curiously enough,
7 his interview does not appear in the report and
8 I don't believe we have been provided
9 affirmatively with the audio. We were able to
10 find it. But there is a note that he said
11 before the article went out, before all of the
12 news, he said that some officers viewed the
13 badge bending as a notch on their belt for a
14 fatal shooting.

15 Is that something you've heard
16 by officers that may have taken a different
17 view of badge bending than you did?

18 A. No.

19 Q. So have you ever heard anyone
20 describe it being a notch on a belt for a fatal
21 shooting?

22 A. No. If I -- if anything like
23 that I heard or read, it would have probably
24 been in a newspaper article that came out about

1 this where that illusion was made, and I -- it
2 was nowhere near correct. That's when I
3 remember hearing something about it being
4 fatal.

5 Q. If Travis said that he heard the
6 notch in the belt for a fatal shooting before
7 the article ran, because of your, you know,
8 your extensive experience in the department,
9 who could I speak to to see if I could verify
10 or disprove that? Do you have any idea of who
11 might know?

12 A. I don't, other than anybody he
13 worked with.

14 Q. Do you know who he worked with?

15 A. I can't remember off the top of
16 my head.

17 MS. LORENTSON: Katelyn, correct
18 me if I'm wrong, you never provided us
19 with his statement, right? It was
20 redacted in the report.

21 MS. KNIGHT: You know, I don't
22 remember offhand that specific one. I
23 feel like this may have been part of a
24 later supplement, but I don't have a

1 specific memory at this point.

2 MS. LORENTSON: Because I think
3 that the -- the only way I would say I
4 would find that, interestingly, was
5 going in through the emails at the end
6 and the audio link is linked in the
7 emails, and so I was lucky enough to be
8 able to find that.

9 So we have all of the materials
10 from August of 2021, and I don't
11 believe that we received a copy -- so
12 I'd just like to put on the record a
13 request for the copy of his interview,
14 whatever notes or documents, because
15 obviously it's information that's, you
16 know, news to me and Mr. Tribble as
17 well that I would like to be able to
18 look into.

19 MS. KNIGHT: Okay. Yeah, I
20 mean, I think these were subpoenaed
21 records from Mr. Giordano. We did have
22 a chance to look through those at the
23 time of the subpoena. I don't believe
24 that was withheld. I'm certainly happy

1 to double-check it for you.

2 MS. LORENTSON: Yeah, you
3 understand with the controversy
4 surrounding documents being deleted and
5 everything, I need to dot all my I's
6 and cross my T's.

7 BY MS. LORENTSON:

8 Q. So, Mr. Tribble, we were given
9 three versions of -- well, actually, four
10 drafts of the Giordano report, and, you know,
11 that came out to be about 3,000 pages. Looking
12 at the comparisons to the final report that we
13 were given and also the initial drafts, there
14 were several shifts in the way that the reports
15 were written and I'm hoping that you can give
16 me some clarity, if you can. If you can't,
17 that's fine.

18 One of the shifts I noticed
19 between the first draft and the final draft was
20 that there were findings of fault against -- in
21 the later drafts the findings of fault were
22 against former employees like Ryan McMahon and
23 Terry Poyser. Do you have any understanding as
24 to those people's like position in Vallejo, if

1 they were people that were respected, not
2 respected? I'm just trying to understand why
3 those statements were made as the reports
4 evolved.

5 MS. KNIGHT: Objection,
6 foundation, speculation, compound.

7 MS. LORENTSON: It doesn't
8 matter. He can answer.

9 THE WITNESS: I have no idea.
10 I've only seen one piece of one of the
11 versions of the report, which was my
12 interview.

13 BY MS. LORENTSON:

14 Q. Yeah.

15 A. I don't know which version that
16 was from. But I've gotten two in both
17 depositions so far, and they are the same.

18 Q. Okay.

19 A. That's all I know.

20 Q. That's okay. No; honestly, like
21 I'm just trying to figure out stuff.

22 So Kyle Wylie, all the
23 allegations against him were sustained, but
24 what had happened in the report from the

1 initial draft to the final draft was that the
2 sections about him were rewritten, including
3 removing dates and identifying where badge
4 bending happened. And, you know, interestingly
5 his story aligned very similarly with yours.

6 Do you have any idea as to
7 Kyle's standing in the Police Department or
8 what his position was when this would have been
9 happening in 2021?

10 A. I always held Kyle in a very
11 high regard, and when he worked for me or with
12 me, maybe on a different team but the same
13 days, he was one of the members that I could
14 always count on to be reliable and competent
15 and professional. That's my own experience
16 with him. And I never had any knowledge of him
17 having anything to do with badge bending until
18 I heard it in Judge Healy's courtroom.

19 Q. So Kyle Wylie you said, you
20 know, you had never heard of any allegations
21 about him bending badges, and they sustained
22 all of the violations against him, but then
23 people like David McLaughlin and Matt Kamoda,
24 who admitted to having their badges bent, they

1 were exonerated of any department violations.

2 As someone who through his roles
3 had to be a part of, you know, like you sat on
4 the Critical Incident Review Board, I'm
5 assuming you had to look at violations,
6 potential violations, do you have any
7 understanding as to why the charges or like the
8 violations were exonerated against Matt and
9 David even though their badges were bent just
10 like Kyle's was, just like Jarrett Tonn's?

11 MS. KNIGHT: Objection,
12 speculation.

13 MS. LORENTSON: That's fine.

14 BY MS. LORENTSON:

15 Q. You can answer.

16 MS. KNIGHT: And she is correct,
17 you can always answer unless I instruct
18 you not to.

19 THE WITNESS: I'm just listening
20 to you two ladies tell me what to do.
21 Somebody tell me what to do.

22 BY MS. LORENTSON:

23 Q. To give you clarity, Mr.
24 Tribble, I am trying to figure out if this was

1 a fair and unbiased report, and I have -- I
2 mean, obviously we've gone through the things
3 where people were given secondary interviews
4 and you were not and you were charged with
5 multiple violations and other people who had
6 their badges bent were not, and so I'm trying
7 to figure out why certain people were found to
8 have violated policy and then the exact same
9 conduct other people aren't, and so I'm just
10 trying to figure out if you can help me
11 understand the politics in the Vallejo Police
12 Department to understand that better, because I
13 have no frame of reference.

14 A. It would be purely conjecture on
15 my part. I have a belief, but, again, that's
16 conjecture and it's based on my personal
17 experience and opinion with what has been going
18 on over at the Police Department, so.

19 Q. Well, I would like to hear your
20 personal belief based on your personal
21 experience.

22 A. I believe that the impetus and
23 objective of this entire investigation was to
24 begin the process of replacing the command

1 staff at the Vallejo Police Department. I saw
2 that with the bringing in the Department of
3 Justice to reevaluate everything that had
4 already been reevaluated.

5 In my experience, you don't
6 bring that in for standard officer misconduct,
7 you usually would call on them to do an
8 overhaul basically of the command staff.
9 That's probably where some of the jokes about
10 tapped wires, you know, whatever, came from.

11 I have no information about the
12 sustained findings on any of these, even on
13 myself, until you told me. And, quite frankly,
14 I have no objection to that in regards to me
15 because even though I don't believe had this
16 not reached the level of press notoriety and
17 some of the unfortunate contemporaneous actual
18 events that occurred, I still believe that
19 extremely bad judgment, extremely poor
20 decisionmaking on my part, there was no malice,
21 there was no ill intent, there was no -- behind
22 any of it, so I don't mind the sustained
23 problem -- or sustained allegations against me,
24 I don't think they're as large, the violations,

1 as they are perceived to be or portrayed to be.

2 I don't necessarily think anyone
3 besides me, and I believe I told Giordano this,
4 should have been found -- unless they were
5 doing something I don't know about, should have
6 been found in violation at all. I did this, I
7 own this, as far as Vallejo PD goes. It all
8 falls on my shoulders, and none of this would
9 have happened if it weren't for me and my poor
10 decisions. So I'm okay with that.

11 I don't know the reason behind
12 the other findings, but my belief is that there
13 was -- there was and may still be a drive to
14 completely alter the composition of the Vallejo
15 Police Department from the top down, and --

16 Q. By who?

17 A. Probably the -- probably the
18 city itself, meaning City Hall, city
19 management. I am not -- that's way above my
20 pay grade. These are all opinions and
21 conjectures on my part.

22 Q. Oh, I understand.

23 A. But that's what I believe.

24 Q. And by replace, do you mean like

1 replace the leadership, like the captain, like
2 are you talking about people like Bidou or I
3 guess --

4 A. Well, Bidou is no longer there.

5 Q. Right.

6 A. Neither is the chief that they
7 brought in that initiated all this stuff.

8 Q. Elio? Elia?

9 A. No, I don't know if he was the
10 one that initiated it. It was the last guy,
11 the -- I don't remember his name.

12 Q. Whitney Horton?

13 A. No; Whitney was never a chief.

14 Q. Oh.

15 A. I do believe he is one of the
16 precipitating factors of this whole thing, but.

17 THE WITNESS: Who was the name
18 of the last chief prior to whoever is
19 working now?

20 MS. KNIGHT: Williams.

21 THE WITNESS: Williams, I
22 believe he was specifically brought in
23 to alter the structure of the command
24 staff at the Vallejo Police Department,

1 and I think he did his job and then he
2 was -- he departed shortly thereafter.
3 All conjecture on my part.

4 BY MS. LORENTSON:

5 Q. Yeah, I understand, I
6 understand.

7 I'm going to represent to you
8 that the reason why -- I agree with you that
9 there is probably an ulterior reason for this
10 report being made. The reason that was given
11 was that it was meant to do a full and complete
12 inspection and determination into what did or
13 did not happen in regards to badge bending, and
14 so, you know, that's the reason that was given.
15 Whether or not that's accurate, I, you know, I
16 think that's -- you have spoken on that just
17 now.

18 A. Well, yeah, and if you don't
19 mind, if you don't mind to help clarify part of
20 what I'm saying is the people that you told me
21 had been sustained, myself included, were all
22 of the rank level, either a sergeant or maybe a
23 lieutenant or a captain, I don't know, but not
24 the lower level line officers.

1 And there could be two reasons
2 for that, right, there could be the drive to
3 revamp the command staff structure, right, but
4 there could also be this aspect, is when a
5 ranking officer does something with a lower
6 rank officer, that lower rank officer is at a
7 disadvantage, right, to stand up or push back.
8 So in some ways it could be looked at like it
9 was a greater violation for someone that should
10 know better and be a better leader, myself, I
11 mean, specifically, should have been a better
12 leader. So that the violation may have more
13 magnitude with the ranking officer, if that
14 makes sense to you. The junior or lower
15 ranking officer, they're kind of at a
16 subordinate level, you know.

17 And in none of these cases that
18 I participated in did anyone have a choice on
19 whether their badge was bent. They could react
20 however they wanted, but none of them had a
21 choice and none of them voluntarily gave me a
22 badge to be bent and none of them ever
23 expressed a desire for that to occur.

24 Q. Didn't Josh Coleman talk to Vice

1 and say that he went to you to have his badge
2 bent affirmatively?

3 A. Did Josh Coleman what? I'm
4 sorry.

5 Q. I think that Coleman had gone
6 to -- had participated in an interview with
7 Vice News and it made it seem like he had
8 sought you out to have his badge bent.

9 A. I never saw the interview with
10 Vice News. I never -- they asked me for one, I
11 never provided one, knowing that we still had
12 all of this to do, you know.

13 Q. Sure.

14 A. So I don't know anything about
15 what you're talking about, but I do know that
16 in the incident that I remember bending Josh
17 Coleman's badge, I summoned him, and, again,
18 would never have mentioned it to him until
19 after I did it.

20 Q. What are your thoughts on the
21 Vallejo Police Officers Association?

22 MS. KNIGHT: Objection, vague,
23 ambiguous, relevance. Go ahead.

24 BY MS. LORENTSON:

1 Q. Are you a member? Excuse me;
2 were you a member when you were -- is it
3 compulsory, like everyone is a member?

4 A. Well, it's compulsory to -- yes
5 and no. I mean, if you want to have access to
6 legal defense, then you have to be a member,
7 because that's what the account is with, that's
8 my understanding of it, which is why most
9 people are association members.

10 I don't know that they ever
11 really did anything that I am aware of that's
12 helped or hurt the police officers. I know
13 there is a lot of -- those guys were always
14 involved in some kind of contractual
15 disagreements or whatever with the city. It
16 never seemed to be an amicable relationship
17 between them and the city.

18 Q. Do you know why there was
19 contract issues between the city and the VPOA?

20 A. You know, only the things that I
21 heard, which are not direct involvement in any
22 of the negotiations.

23 Q. What interaction, if any, did
24 you have with Michael Nichelini?

1 A. Well, Michael Nichelini was an
2 employee of the Police Department.

3 Q. And that his father was a former
4 member of the Police Department, right?

5 A. Yeah, his father was the chief
6 that was running the department when I was
7 hired.

8 Q. There was an incident that we
9 were told about where, in an email, that
10 Michael had -- that Mr. Nichelini had taken a
11 photograph of a badge that had a -- a Vallejo
12 badge that had a swastika engraved in it and
13 had sent it to his dad and it made its rounds
14 in the Police Department. Is that an email
15 that you had ever seen or you had to address in
16 any way?

17 A. I don't believe I ever had to
18 address that, but I did hear about that and/or
19 see it somewhere in the news or something.

20 Q. Do you have any understanding as
21 to why that photo would be shared?

22 A. I would only say to defame the
23 Police Department, because my understanding is
24 that the date that that badge was issued, the

1 swastika hadn't even become a thing with the
2 Nazis because it was prior to the Nazi
3 activities in, what, the '30s or '40s. That
4 badge was prior to that. So I don't -- that's
5 all I ever heard about that, so.

6 Q. Yeah, but what did you hear
7 about the -- have you heard anything about why
8 Nichelini shared that? He shared that
9 recently, it wasn't something that was -- you
10 know, obviously wasn't around in the '30s or
11 '40s. He shared it recently.

12 A. Yeah, I don't know that he
13 shared that. I know that a lot of things in my
14 personal belief were, quote-unquote, leaked to
15 the press in an effort to defame the
16 department. I don't know how that came to be,
17 that picture, so. I wish I could tell you.

18 Q. What do you mean, leaked to
19 defame the department?

20 A. I think information showed up in
21 like in the report against the badge bending
22 thing, I think a lot of incorrect information
23 was provided to the press from somebody, and I
24 don't know who, but in an effort to initiate

1 this whole investigation. Because like I have
2 told you, most of the reporting in those press
3 pieces was inaccurate and nobody had ever had
4 an in-depth conversation with me, who was the
5 origin of all of this, and I had to watch --
6 I'm not playing the victim here, but because of
7 the way things work with these things, I had to
8 watch all of this unfold before I was ever
9 given an opportunity for an interview and in
10 subsequent depositions.

11 So I watched a bunch of
12 information that wasn't entirely accurate in my
13 opinion be portrayed as true, and that had to
14 come from somewhere, you know, so.

15 Q. Who do you believe it came from?

16 MS. KNIGHT: Objection, calls
17 for speculation.

18 BY MS. LORENTSON:

19 Q. That's fine. You can speculate.
20 Do you have any -- like who do you believe it
21 came from?

22 A. Okay. So just to -- you have
23 seen my interview with Giordano, correct?

24 Q. Yes.

1 A. Okay. So similar to that
2 interview, I would say -- and, again, I was
3 really, really adamant about making sure he
4 understood this was my personal belief but
5 there is not a foundation in direct knowledge,
6 would just call this being a cop and having
7 been around for a while, my belief is most of
8 the source of this information came from a
9 former captain named John Whitney.

10 Q. And why do you believe that?

11 A. I believe that John Whitney
12 was -- well, I know he was terminated, I do not
13 know why and I don't think I could discuss it
14 if I did based on personnel rules, but I can
15 tell you I don't know why.

16 Q. Okay.

17 A. I do know that prior to his
18 departure from the Police Department
19 information about officers involved in
20 shootings, officers involved in use of force
21 and myself personally had been released to the
22 press after I had conversations with Captain
23 Whitney, concerned about this type of
24 information being misconstrued by the press.

1 So based on my interactions with
2 him and the subsequent airing of the same
3 things I brought up as concerns that should be
4 paid attention to, I narrowed it down to, well,
5 this is the person I think that probably may
6 have supplied this to the press.

7 I know that former Captain
8 Whitney had either a neighbor or a very good
9 friend that was a reporter. I had seen him
10 with her at the department many times. And I
11 know that prior to his departure all of our
12 phones in the command staff that I'm aware of
13 were ordered in for inspection, and I don't
14 know the depth of that inspection, but I know I
15 gave mine up willingly, even though it was my
16 personal phone, without any alterations, handed
17 it over, they had it for three days.

18 The administrative order said
19 that my email connection had to be modified but
20 then they told me it was so bad it needed four
21 days, and shortly after that Whitney was
22 terminated. I don't -- I don't know, but my
23 belief is there was information that was
24 considered confidential by the Police

1 Department that's not for public release that
2 was being released by that captain. That's a
3 conjecture on my part based on the
4 circumstances.

5 And then post his termination
6 more negative press about Vallejo PD started
7 ramping up.

8 Q. I took Mr. Whitney's deposition
9 in this case, and he shared with me that there
10 were some issues with the department that you
11 guys disagreed on but then there were others
12 that you agreed on. Do you think that that's
13 an accurate statement, that there were --
14 putting aside how he handled it, if he did, do
15 you agree that there were some departmental
16 problems that you both agreed needed to be
17 addressed, you know, understanding you may have
18 disagreed on how they were addressed?

19 MS. KNIGHT: Objection,
20 mischaracterizes testimony. Go ahead.

21 MS. LORENTSON: No, it doesn't.

22 THE WITNESS: I'm not aware of
23 that. The interactions I had with
24 Whitney -- first of all, I was his

1 subordinate for a good portion of my
2 tenure, both on the SWAT team and the
3 range staff and as an instructor, he
4 was one of my primary supervisors, and
5 in many cases we had what you would
6 consider staff meetings for whichever
7 the discipline was, armoring, use of
8 force, I never had much to do with the
9 driving guys, bike patrol, SWAT.

10 So we, we frequently had
11 meetings on, you know, the state of the
12 unit at the time and things that may
13 need to be improved or not improved. I
14 don't remember us ever butting heads
15 over something serious as like an
16 officer's lethal use of force. So I
17 don't know what he is talking about
18 there.

19 BY MS. LORENTSON:

20 Q. And the fact that you agreed on
21 certain issues?

22 A. I think that we agreed on
23 several issues.

24 Q. Yeah. And was one of those

1 issues the instances involving officer-related
2 use of force?

3 A. I think in most of those we saw
4 eye to eye, yeah. And I think that if there
5 was -- so when it comes to review of these
6 things, if there is a different opinion among
7 the people that are actually looking at this,
8 they're not pointing fingers at each other
9 saying you're wrong, you're wrong. What those
10 meetings do is sometimes somebody sees
11 something in a video that the other person
12 doesn't and it gives the people that have to
13 review it a chance to all go over it and speak
14 their peace and get as much information out of
15 the incident as they can, then come to a
16 consensus.

17 So, yeah, I would say on most
18 use-of-force things, at the end of the day most
19 people are in consensus.

20 Q. Did you ever, in any of the
21 roles you had at Vallejo, push for additional
22 training for officers?

23 A. Many times.

24 Q. In what areas did you feel that

1 there was a need for additional training?

2 A. Firearms in particular and SWAT
3 and canine. I believed these are -- these are
4 the incidents in the police job -- you got
5 to -- without sounding insulting, you got to
6 remember there is so much more to police work
7 than what I'm talking about, but these things
8 that I'm talking about are those things that
9 they call high risk/low frequency incidents,
10 and the reason you really need to train those
11 is it's not like you go to work every day and
12 do these things every day and become very
13 proficient through actual practical application
14 on a daily basis, but these things, when they
15 do occur, they have a great, great potential
16 for injury, harm to the public, harm to the
17 officer, and, you know, sometimes catastrophic
18 results, and that includes high speed pursuit
19 driving, use-of-force application at above
20 intermediate level, and, you know, specifically
21 lethal force, in whichever form that comes, and
22 then there is also places, like repelling, you
23 know, when we're doing SWAT stuff, that happens
24 very rarely, if ever, but I've done it a couple

1 times, and if you're doing it ever, you need to
2 be proficient.

3 So in all those disciplines I
4 always push for more training, because with the
5 workload we have, the department met the
6 standards set forth by the state for training
7 but I don't think it's enough to do things at a
8 high risk level, and I just would always -- it
9 never hurts to have more training in those,
10 those disciplines.

11 Q. When you say that, you know,
12 you've -- it's commendable, you've taken a lot
13 of ownership and, you know, blamed -- you know,
14 said, you know, this is the badge bending
15 thing, I own this, but you're aware that other
16 people were bending badges besides you, right?

17 A. I am now, but I also believe
18 that that wouldn't have occurred if I hadn't
19 invented the whole thing with Golinveaux,
20 right. So I still claim ownership of that, as
21 a secondary layer of my misconduct.

22 Q. One witness told me that there
23 was a habit among some officers, not all, but
24 some officers where they had a practice of

1 saying that the suspect was armed when the
2 suspect was not arm. An example that was given
3 to me was a high-speed chase at night and over
4 the radio the pursuing officer said, you know,
5 furtive movements, suspect is armed, when the
6 witness said there is clearly no way they could
7 have known that that person was armed because
8 it was in the dark and in a car pursuit.

9 Had you ever had to address any
10 issues with officer use of the radio and what
11 they were saying while in pursuit or in one of
12 these incidents?

13 A. I mean, that's a pretty broad
14 question because you're asking me if ever, and
15 I think there is more than one time that what
16 you're describing has occurred and it's been
17 discussed. The only time I actually had to be
18 involved in any kind of documentation of such
19 event would have been just recently with
20 Officer McMahon.

21 Q. And what was that with Officer
22 McMahon?

23 THE WITNESS: The personnel
24 stuff doesn't matter, correct?

1 Oh, I'm sorry for looking --

2 MS. KNIGHT: We'll cover it with
3 a protective order.

4 THE WITNESS: Okay.

5 Yeah, so at one point when Mr.
6 McMahon's performance was -- he was
7 under my purview as a lieutenant, he
8 was an officer, some concerns had been
9 brought up from different avenues
10 toward me. One of them regarded a
11 pursuit I believe that he was in where
12 he said the officer -- the person he
13 was pursuing was armed and then -- and,
14 again, this is secondhand information
15 from -- I believe it was from Sergeant
16 Wylie, but then upon later review that
17 suspect either was found not to be
18 armed, which doesn't mean he wasn't
19 armed when the officer said he was, it
20 just means at the time he was contacted
21 he was found not to be armed, but I
22 think the issue was that, if I recall
23 correctly, was that Officer McMahon
24 denied having said that the suspect was

1 armed on the radio, and I think that
2 was the cause for concern.

3 And that's the only case that
4 closely reflects the question you asked
5 me, if I got it right.

6 BY MS. LORENTSON:

7 Q. It does. Were there any other
8 instances that you're aware of of an officer
9 claiming that a suspect was armed over the
10 radio and it turned out to be that they weren't
11 armed?

12 A. I think that -- well, see, you
13 got to -- you have to be really careful with
14 the definition of "armed," because it's not the
15 same across the board, and there is -- I don't
16 know the accuracy of this statement, because
17 use of force was what my venue was.

18 Q. Right.

19 A. Use of force, I was supposed to
20 stay current on it, I was supposed to --
21 oftentimes in the -- what do they call it? The
22 FBI's UCRS, Universal Crime Reporting
23 Statistics, right, and some reports of
24 different departments, they all say that a

1 suspect is not armed if there is a gun near the
2 suspect but it's not in his hand, and that's
3 not an unarmed suspect. Any time where there
4 is a gun in play, that suspect is to be
5 considered armed because he has access to it.

6 There are a lot of times where
7 people say the suspect was unarmed when he is
8 actually driving a 3,000 pound vehicle at an
9 officer and that's a weapon, so he is armed.

10 So I want to be very clear that
11 the termed "armed" versus "unarmed" is a loaded
12 term. There is a lot of different
13 interpretations --

14 Q. No pun intended.

15 A. I'm sorry?

16 Q. I said, "No pun intended" to say
17 it's a loaded term.

18 A. Oh, yeah, that's pretty good, I
19 like that.

20 But, yeah, it's a tricky
21 question because it's not defined the same by
22 all the entities out there.

23 Q. Let me clarify, I am curious to
24 know if in your role at the Vallejo Police

1 Department, if you were aware of instances
2 which an officer said a suspect, like you just
3 said with McMahon to use as an example, where
4 an officer says something on the radio in a
5 use-of-force incident that turns out not to be
6 accurate?

7 A. I think that that has happened,
8 yes, and I think that what happens frequently,
9 and without giving a specific result, but -- I
10 can give a specific result, I was involved in
11 an officer-involved shooting, I don't know what
12 year it was, 2012 I guess, and it was a reverse
13 hot robbery operation, and where we already
14 knew based on prior knowledge of the suspect's
15 MO, for lack of a better term, that armed
16 suspects would show up at this sting operation
17 and attempt an armed takedown of an alleged
18 marijuana dealer. That alleged marijuana
19 dealer was an undercover officer.

20 We had already been through
21 several of these investigations, and the person
22 that was a suspect in one of the prior ones was
23 identified by phone number as the one trying to
24 set up this next large volume marijuana deal

1 but we had high suspicion it would turn into a
2 robbery, so we sent the team out there that was
3 trained up on doing a reverse robbery sting. I
4 was involved in that.

5 The suspect prior to accessing a
6 weapon made all the movements and had all the
7 characteristics of somebody that carries a
8 weapon. We know this because police officers
9 carry weapons both on duty and generally off in
10 a concealed capacity and we know what it looks
11 like when people have concealed weapons,
12 whether you can actually see the weapon or not,
13 and we know how their bodies move because we
14 have done it thousands of times at the range
15 when they're moving with a weapon and trying to
16 keep it secure in their waistband or their
17 pocket or whatnot or even the weight of the
18 jacket, the way it moves.

19 So in this case, the robbery
20 case, the suspect had not yet accessed his
21 weapon but we initiated the arrest attempt
22 prior to the production of the weapon and he
23 fled and he fled in a manner where I could see
24 the hand movements and the jacket movements by

1 the weight that was in his pocket that I
2 identified as a suspect probably having a gun
3 and being armed and we responded accordingly.

4 That is an example of when the
5 gun is not yet seen and somebody says in a
6 pursuit that the suspect is armed, it looks
7 like he is reaching for a gun. Now that
8 suspect was shot but got away that day, and
9 there is no way to verify other than my
10 statement, my witness statement, and I believe
11 at the time Sergeant Cuello's witness
12 statement, that that is what the suspect had
13 and did. We both at some point saw a glimmer
14 of what appeared to be the handgun. And that
15 suspect fled out of our ability to capture.

16 He was recovered later at a
17 hospital without a gun, but a couple of days
18 after that a search warrant was conducted on
19 his vehicle, the clothes he was wearing,
20 including the gunshot wound evidence that
21 occurred during our exchange was on his
22 clothing, and ammunition for a firearm was
23 found in his girlfriend's place, but I don't
24 know that a gun was recovered.

1 So I know that's really
2 long-winded, but that's an example of what
3 you're talking about, and that's not terribly
4 uncommon but it's one of the things we're very
5 careful about because we try not to set
6 officers up for a mistake-of-fact shooting.

7 A mistake-of-fact shooting is
8 when they see something that appears to be a
9 weapon and in the split second they have to
10 identify the threat and respond accordingly
11 they may have made a mistake.

12 Q. And what do you do in training
13 to prevent that from happening?

14 A. Well, there is a bunch of things
15 that we do. We train threat identification is
16 number one and a huge one. It's very difficult
17 to do in a high-speed environment, in a fluid,
18 not static environment. But by varying targets
19 up with different things in their hands,
20 different types of threats, even by commands at
21 the firing line, whether we say "basketball" or
22 "chainsaw" or whatever, the officer has to
23 discriminate between what would or could be a
24 threat before they respond. And that's how we

1 train for that.

2 We also, when I was leaving, as
3 an armorer, and I honestly don't know where
4 they are with this in the program yet, but a
5 huge advantage has come to the police
6 departments via the military really. That's
7 one of the things I was at, that shot show that
8 we were talking about earlier, where it was red
9 dot polygraphic optics on pistols had become
10 very useful and their main advantage that I was
11 an advocate for and really proposed to the
12 Police Department, and Chief Williams seemed to
13 be on board while I was working there, was that
14 with a red dot optic on your handgun it does a
15 tremendous, tremendous thing for the safety of
16 the suspects, the officers and the public at
17 large, and I'll describe it to you.

18 When you are using a handgun,
19 for the last 26, 7, maybe even longer than
20 that, years, as a firearms instructor, SWAT guy
21 and a police officer primarily trained with a
22 pistol, with iron sights to effectively use
23 your pistol in the safest manner so that you
24 didn't have errant rounds that hurt somebody

1 that was an unintentional involved party or a
2 hostage or an innocent of any type, you had to
3 really focus on the front sight of your firearm
4 to get an accurate shot off.

5 The problem with that is, and
6 I'm no doctor but I know from experience, you
7 can't clearly see about 2-1/2 feet from your
8 body and something that's 20 feet from your
9 body at the same time. So if you're required
10 to actually focus on a front sight to get an
11 accurate shot off, that takes your focus off of
12 your adversary or your intended target.

13 Now, because your focus has gone
14 to a 2-1/2-foot distance and not at a 10 to 12
15 or 20 or 40-yard distance that you're now
16 supposed to be engaging, it's a lot harder to
17 identify whatever it is in the waistband, the
18 pocket or the hand or what's coming up in your
19 direction than it is with a red dot sight,
20 because these red dot holographic sights, we've
21 had them on our rifles for a long time, since
22 the mid-'90s but the technology has become
23 reliable enough for handguns, that system
24 allows you to keep both eyes focused on

1 whatever it is your intended target is, and the
2 holograph just shows up while your eyes are
3 focused on the intended target. That allows
4 for a better identification of the movements,
5 the body attitude, and the objects in or around
6 the suspect's hands and what he is doing with
7 those hands or she for that matter.

8 So to me there is no argument
9 anymore against equipping officers' pistols
10 with red dot sights because that allows them to
11 be able to focus on whatever it is they're
12 dealing with and it reduces the potential for
13 mistaking a cell phone, anything else that
14 would fairly -- be fairly innocuous to a
15 handgun or a blunt object or a bladed weapon,
16 because it allows the officers to see more
17 clearly.

18 It also improves their
19 performance at the range. I don't exactly know
20 why. But older officers with less, I don't
21 know, acute eyes, mine are gone, I think mine
22 went around 10 years ago, and getting worse,
23 it's harder to pick up the sights as quickly as
24 it is when we were in our 20s, and these red

1 dot optics tend to help those officers perform
2 better. I don't know the physiology behind
3 that. I think it probably has something to do
4 with what I said earlier.

5 But to me there is no argument
6 not to be equipping the duty weapons with red
7 dot sights. It's just -- I've been pushing for
8 that for a long time. I think the only
9 obstacle is finances and equipment
10 manufacturers. As far as I know, when I left,
11 there weren't a whole lot of holster
12 manufacturers that produced optic equipped
13 pistol holsters that had the degree of safety
14 and retention that we require as police
15 officers.

16 Q. Understood. I read to you
17 portions of Jarrett Tonn's statement to
18 Giordano. Were you ever his supervisor at any
19 point?

20 A. I believe so, yes.

21 Q. You said that there was one
22 incident that you were involved with with him
23 where you reviewed something through the
24 Critical Incident Review Board, and that was an

1 officer-involved shooting with Jarrett Tonn and
2 Gary Jones, right?

3 A. Yes.

4 Q. Well, what was the outcome of
5 that critical incident review?

6 A. I think it was a consensus that
7 it had administrative approval.

8 Q. And what was the -- just the
9 very basic broad strokes facts of that
10 incident?

11 A. Okay. I believe Jarrett Tonn
12 and Gary Jones were partnered up in a two-man
13 car. I think at the time most of our guys had
14 to be in two-man cars, gals. They were in an
15 area where they had prior knowledge of a
16 suspect either -- I think it was through
17 informant information, that there was a suspect
18 that was on patrol, that had a stolen car and
19 was armed, because someone had seen him
20 brandish the weapon earlier, either that day or
21 in close time to the event that we're talking
22 about here.

23 They identified the suspect in
24 the car passing them on some road, I don't

1 know, on the east side of town, I can't
2 remember specifically, they flipped a U-turn to
3 catch up to the suspect, they got him stopped
4 on a street just off of the main drag they had
5 been on, and that suspect at the termination of
6 the brief pursuit threw his car into reverse
7 and -- or the car went into reverse, came back
8 at the officers and struck their vehicle as
9 they were getting out.

10 They engaged the suspect with
11 gunfire, perceiving the collision as a threat
12 of great bodily injury, and I don't -- I think
13 he may have sustained minor injuries and then
14 taken into custody. There was a passenger in
15 that vehicle and that passenger was not struck
16 by gunfire at all.

17 Q. And Tonn, however, he fired his
18 weapon, correct?

19 A. Todd?

20 Q. Tonn.

21 A. Tonn, okay. Yes, I believe so.
22 I believe Tonn fired I think it was 17 or 18
23 rounds and I think Gary Jones fired one.

24 Q. So if Tonn represented that he

1 did not fire his gun during that incident,
2 would that be an inaccurate statement?

3 A. I don't -- I don't know how that
4 he would have said that. I think it's on
5 video, unless in that review we actually have
6 the actors mistaken for who they are, but I
7 think we watched the video and I think that the
8 report was written and the consensus was four
9 or five command staff officers.

10 Q. Yeah, so that was one of the
11 things I wanted to ask, because there is a --
12 when I'm looking at the findings from this
13 report, and, again, you know, we both talked
14 about our thoughts, but the Critical Incident
15 Review Log provided by the city to Mr. Giordano
16 lists the only person being involved as Gary
17 Jones and that Tonn did not fire his weapon,
18 well, according to Tonn, that's why he is not
19 listed in the Critical Incident Log entry
20 below. Tonn explained that while he was with
21 Jones, riding in the same car, he did not fire
22 his weapon and that you did not have the facts
23 correct when you said that you bent his badge
24 in a shooting, because Tonn did not fire his

1 gun. But you saw the video, right?

2 A. Yep. So I think I have
3 mentioned this before, when I interviewed with
4 Giordano, I think I was associating the
5 potential that I did bend their badge, because
6 at some time they did work for me, I associated
7 it with the Motel 6 thing up north, when I
8 couldn't keep up and they ran and chased the
9 suspect to a car dealership lot, the guy tried
10 to run Gary Jones over and Jarrett Tonn was
11 present.

12 I don't know -- all I'm saying
13 is maybe that's what he is talking about.
14 Because when I first interviewed with Giordano,
15 I didn't even remember this other one until I
16 interviewed much later with Buena, this one
17 that we're talking about down with Gary Jones
18 and Tonn and the suspect in the stolen car.

19 So I -- maybe there is a
20 miscommunication there like there was with me
21 with Giordano. Are you following me on that?

22 Q. Yeah, I don't think so. I don't
23 think that's the problem.

24 A. Okay.

1 Q. Yeah, it's interesting because
2 there are multiple representations, but in one
3 of the findings that led to them dismissing
4 your testimony, saying that you were not
5 credible, was that the city provided a list of
6 the shootings and said that Tonn was not the
7 person who fired his weapon, it was Jones. And
8 so I -- that would be inaccurate, right?

9 A. I think that's inaccurate, but,
10 I mean, the simple answer for me would be just
11 go look at the video.

12 Q. Sure. So it's an inaccurate
13 statement according to you. So then if the
14 city provided an incident log that said that
15 Mr. Ramrakha was not part of that shooting in
16 2005, the one that we talked about at or around
17 Relay, is it possible then that that's
18 inaccurate, that he was a part of it?

19 A. No, because I -- I think that's
20 less likely. Because now that you brought up
21 the names, I kind of remember, it was Brent
22 Pucci that was with Jeremie Patzer that was
23 involved in that. Pucci left the department a
24 long time ago.

1 Q. Maybe a good reason to stick his
2 name in there, right?

3 A. Well, I remember that Brent was
4 involved in that -- or I think I do. You know
5 what, I don't know. I'm trying to help you as
6 best I can.

7 Q. I know you are, and I think that
8 you testified as best you could in front of Mr.
9 Giordano. I'm just trying to figure out why he
10 discredited everything you said, and I think --
11 well, I'll leave you to -- you could probably
12 guess what I think, but.

13 There is additionally -- one of
14 the issues I've had in this case, Mr. Tribble,
15 is obtaining documents, and I know that you are
16 familiar, that there have been articles about
17 it, et cetera, but there is some crucial
18 evidence from our case that no longer exists,
19 and I am wondering if, you know, you have any
20 knowledge as to officers being instructed by
21 anyone from the city to either destroy evidence
22 or delete emails or to, you know, use various
23 applications, such as WhatsApp or Signal, to
24 communicate when there is a lawsuit involved.

1 And, again, I'm not saying
2 anything about your habits or behaviors, but
3 have you been asked or have other officers
4 you're aware of been asked by not officers to
5 delete or destroy or just to not have documents
6 available?

7 A. If I'm understanding your
8 question, you're asking me if I know if
9 non-sworn people --

10 Q. Uh-huh.

11 A. -- have directed sworn officers
12 to destroy evidence or conceal evidence?

13 Q. In terms of litigation. So if
14 there is a -- in a litigation or investigation,
15 are you aware of instances in which persons
16 from the city or the attorneys office have
17 asked officers to delete emails or text
18 messages or to get rid of things that have been
19 sought through those investigations or those
20 lawsuits?

21 A. No. That would be criminal
22 conduct.

23 Q. Yes. Are you aware of any
24 allegations or rumors about that at all?

1 A. Well, I don't remember what the
2 source was, but we're back to John Whitney, and
3 I know that when I turned my phone in for
4 examination, like we spoke about earlier, I
5 think that happened in April of 2019, maybe it
6 was April of 2018, but I think it was 2019,
7 because I was at a two-week Krav Maga
8 instructor course, and I had to give up my
9 phone, and it didn't matter because I was busy
10 getting beat up by all the young guys, but my
11 phone was gone for four days, and that was
12 shortly after a lot of that negative press came
13 out I think we discussed, where I came up with
14 my beliefs about the information from him, and
15 there wasn't a -- I don't remember the name of
16 the defendant, but there was a defendant where
17 we had all been subpoenaed for our phones like
18 six months prior to this, and that happens like
19 regularly, where we get subpoenaed for whatever
20 documents we have on our phones relating to
21 this case.

22 The information that I had,
23 quote-unquote, through the grapevine is that
24 Whitney didn't turn in his phone or he did but

1 he did it in a way that allowed there to be
2 documents removed from it before it got turned
3 in. I don't know. That's thirdhand
4 information. I don't even know if it's
5 accurate.

6 I know when they gave me the
7 notice to turn my phone in for email
8 adjustments or whatever, I just handed it to
9 them. Anything that's on my phone, you know,
10 may not be flattering to me but it's not
11 criminal, so.

12 Q. When you were interviewed by
13 Giordano, you stated that when you were looking
14 at the badges and you had gone to collect them
15 after you had a badge inspection, that you and
16 Huff had a conversation in which you decided
17 that you were going to inspect the badges for
18 damage or that at the staff meeting badges
19 would be inspected for damage and those badges
20 would be turned in to be replaced, but that a
21 conversation between the two of you was had to
22 retract that decision and then to replace the
23 original -- oh, gosh, I'm making no sense. I'm
24 really sorry. It is not lunchtime where we

1 are.

2 A. Sorry.

3 Q. A conversation with you and Huff
4 was had over the bent badges, and initially,
5 according to your statement, the decision was
6 to collect and then return to the officers
7 fixed or new badges. Is that accurate?

8 A. No, that's not.

9 Q. Okay. Tell me what the
10 conversation was. I'm interested in what you
11 and Huff decided, if anything, in terms of the
12 officers inspecting their badges on their own
13 or replace them on their own or if it was going
14 to be the department replacing them. What is
15 true to that then?

16 A. Okay. So the first thing I
17 would try to correct is that was not a decision
18 made by Sergeant Huff or I.

19 Q. Okay.

20 A. That decision came from a staff
21 meeting where the sergeants were to go out and
22 inspect the badges of their troops and then
23 they were to identify any of the badges that
24 were malformed in any way, no specific

1 description given, those badges were to be
2 turned in and no questions asked and then they
3 needed to be repaired or replaced.

4 That's what I was told to do at
5 a staff meeting, that staff meeting I believe
6 Sergeant Huff was present for as well, and then
7 we tried to follow suit with those orders.

8 Q. Then how did it come to be that
9 the officers were told to repair their own
10 badges? Who told them that?

11 A. I don't know.

12 Q. So as far as you know, the
13 badges were collected and the department had
14 them fixed?

15 MS. KNIGHT: Objection,
16 speculation.

17 THE WITNESS: I don't know. I
18 wasn't involved in that process.

19 BY MS. LORENTSON:

20 Q. All right. What, if anything,
21 do you know about Sean Monterrosa? Like what
22 did you know at the time?

23 Let's say that, before there was
24 a lawsuit, like contemporaneous, what did you

1 know, when were you aware of what had happened?

2 A. I need to be clear, Sean
3 Monterrosa, is this the gentleman that was
4 involved with Tonn at --

5 Q. Yes.

6 A. -- like the shopping thing
7 during a looting?

8 Q. Yes.

9 A. Okay. I became aware of that
10 probably shortly after it occurred. I think it
11 occurred while I was off duty, and I don't know
12 when I returned to work. I know in that time
13 period there were more than one deaths in my
14 own family and I was out for a couple of
15 different periods of time.

16 I don't know looking back
17 exactly where that lines up with when I was off
18 and when I came back and when I was off again
19 and when I came in and when I finally went out
20 all together, but it was close. It was
21 somewhere in the late spring, maybe early
22 summer of 2020, I believe.

23 Q. And what did you hear? How?
24 From who?

1 A. I don't remember if it was from
2 whoever the on-duty watch commander was, I
3 can't recall, usually it was Darden, but I
4 heard that Tonn had been involved in one of the
5 looting responses that precipitated an
6 officer-involved shooting, and I don't remember
7 getting that name particularly.

8 Most of the time we don't know
9 the names that well, especially if we're not
10 there --

11 Q. Okay.

12 A. -- until it hits the paper.

13 Because, again, once you have an
14 officer-involved shooting, all the involved
15 parties are pretty much ordered not to talk to
16 anybody about it because the thing has to be
17 investigated. So we're very careful as
18 noninvolved people, trying to reach out, we
19 say, hey, let so and so know I'm glad he is
20 okay, you don't have to talk to me about it at
21 all.

22 That's it. So that's kind of
23 what I know about that event. I know there was
24 an officer-involved shooting in response to a

1 looting report somewhere in North Vallejo, and
2 according to the papers the suspect -- this is
3 one of those incidents where they call him
4 unarmed but he technically was not unarmed if
5 what I know about his case is true, because he
6 had an object, some kind of blunt object tool
7 in his waistband that looked like a firearm,
8 so.

9 That's based on newspaper
10 reports. That's not based on any legitimate
11 information from the Police Department, so.
12 But that's what I believe.

13 Q. You're aware of where Jarrett
14 Tonn was physically located when the shooting
15 occurred, right, that he was in a vehicle?

16 A. I know that he was in a vehicle,
17 yes, at least based on what I was told.

18 Q. Yes. Well, I'll represent to
19 you that that's accurate and that he fired
20 through the windshield of the vehicle. Is that
21 something that you ever trained an officer to
22 do?

23 A. Absolutely.

24 Q. In what instances?

1 A. In what instance did I train?

2 Q. When did you train officers that
3 it was okay to shoot through the windshield of
4 a car at someone?

5 A. That training came about earlier
6 in the 2010s, I don't know, '12, '13, '14. I
7 don't know if you're familiar with it, but down
8 south there is something called the Dorner
9 case.

10 Q. No.

11 A. Okay. So kind of when this
12 whole thing switched to as negative interaction
13 with the public as the police have had in the
14 last 10 or 15 years, one of the big things that
15 was happening was officer ambushes, meaning
16 officers being called to locations and being
17 open fired upon as they arrived in their
18 vehicles and/or tried to get out of their
19 vehicles. That was a common thing for a couple
20 years, officer ambushes.

21 When I originally brought up the
22 idea, because in SWAT training, which we had
23 yearly multi-agency regional trainings in
24 Sacramento put on by the FBI to get all the

1 teams onto a certain level like across the
2 country, and the FBI is the federal agency that
3 kind of helps do that, counter-ambush drills
4 were brought to us some time about that --
5 about that time period, and counter-ambush
6 drills were basically they're brought back to
7 us from all the stuff that was happening
8 overseas, and they basically addressed officers
9 being engaged with gunfire as they were
10 basically stuck in their vehicles, because that
11 was starting to happen in police in the United
12 States, and in the Dorner case it happened
13 several times, I believe several officers were
14 killed by Dorner down south, who had been a
15 police officer himself or a police officer
16 reserve, so he knew all their tactics and
17 training.

18 So we had a lot of victims to
19 that kind of attack. So I brought this up to
20 John Whitney and Lee Horton and the command
21 staff, as being one of the senior members of
22 the police department's range training and
23 instructor staff. I believe that Megan
24 Sheridan was actually punched getting out of

1 her car once too, I don't remember, but this
2 all had to do with officers being able to
3 defend themselves from unorthodox platforms
4 because that's where they're starting to be put
5 into positions of lethal engagements.

6 We met some resistance
7 originally with teaching this training. One
8 comment by then Commander Horton was he thought
9 it was too dangerous to train the officers
10 because of the confined space and the
11 limitations that a car presents. We had to
12 discuss that a few times before I got
13 authorization to go get taught myself by
14 professionals and then bring that training back
15 to the department, that happened sometime
16 around 2012, 2014, and then it became a common
17 training event later in the teens, '15, '16,
18 '17.

19 So, yes, that did become a
20 common part of firearms instruction, because
21 officer ambushes started to ramp up in the
22 early teens of this millennium, and then the
23 Dorner case kind of punctuated it with how bad
24 it can be. And then I know there was a case in

1 Dallas where I think six cops were shot
2 responding to a call.

3 Anyway, there was a year that I
4 can't even count how many officers were shot
5 and killed in their cars. So it became an
6 unorthodox but a highly necessary approach to
7 dealing with this new threat.

8 And in that engagement that I
9 was in in 2012, I engaged a suspect from a
10 vehicle, because it needed to be done.

11 You know, so if we're going to
12 have that occur in real life, my belief was we
13 needed to train officers to do it safely so
14 they didn't hurt themselves and/or unnecessary
15 collaterals involved in the situation.

16 Q. Understood. Before you departed
17 from the Vallejo Police Department you had -- I
18 guess your role was -- can you correct me if
19 I'm wrong, like it was something dealing with
20 excessive force, like you were the go-to guy,
21 you were specialized in like reviewing that.
22 What was that qualification that you had? I'm
23 sorry.

24 A. Well, I would object to the

1 term -- I don't know if I'm allowed to, but I
2 would object to the term "excessive force."

3 Q. Well, I'm sorry --

4 A. I was --

5 Q. I apologize; use of force.

6 A. Yeah, I was a use-of-force
7 expert --

8 Q. Okay.

9 A. -- considered by the department
10 based on my training and my experience in the
11 field, and I kind of was channeled into that
12 throughout my whole career based on my
13 assignments as a SWAT team member, SWAT team
14 leader, SWAT team commander, canine
15 coordinator. The only thing that wasn't --
16 that I didn't have to be extremely adept at,
17 because I'm no good at it, is the driving part.
18 So they never made be a driving instructor or,
19 you know, an expert, but --

20 Q. In the use of force -- sorry.

21 A. -- I had to get a bunch of
22 training in so I could help evaluate, review,
23 and hopefully modify and improve the training
24 that existed.

1 Q. In what years were you the
2 use-of-force officer?

3 A. I was trained to be a
4 use-of-force instructor by the City of Vallejo
5 Police Department in 2007. I was actually
6 trained in Sacramento by the Sacramento
7 Regional Safety Office, conducted by the
8 Sheriff's Department out there.

9 Q. And in that role did you have
10 the opportunity to train or -- well, to train
11 Jarrett Tonn?

12 A. In that role but not at that
13 location, yes, as my tenure in the Vallejo
14 Police Department I'm sure at some point I gave
15 him that training.

16 Q. I just wanted to go through,
17 there was an article that was written, I think
18 this might be what you were talking about,
19 like, you know, talking about personal
20 information publicly, and can you tell me what
21 happened with Enrique Cruz? That was I think
22 in 2012.

23 A. Enrique Cruz, can you
24 elaborate --

1 Q. That was someone who was sitting
2 on a bench inside of his jail cell.

3 A. Oh, yeah, yeah, I can explain
4 that one. Actually, so can the police report
5 and the complete video, which was never
6 released to my knowledge.

7 So that incident is documented
8 in a police report. I don't know the case
9 numbers. It should be fully retrievable. It
10 was examined by the use-of-force guys over at
11 the Professional Standards Building because
12 everything in the force goes over to them, it's
13 routed to them, and it's looked at.

14 That was the result of what is
15 called a felony strip search being conducted,
16 and what the public was shown or whatever was
17 leaked to the press, in my opinion, was not the
18 complete set of facts, it was a small clip of
19 the video, it did not include audio, and I know
20 for a fact, having been the watch commander,
21 that those cells have their videos constantly
22 running on a loop. So the whole incident was
23 recorded but only a clip was released. Audio
24 was recorded, because we had to be reminded

1 several times to watch out for what you say in
2 the hallways because the mics are so good in
3 the cells, they'll pick up personal
4 conversations, don't say stupid stuff, you
5 know.

6 None of that stuff got out.
7 Only the clip of me taking the suspect into
8 custody was released.

9 Now, if that whole video had
10 been released and anybody had read the police
11 report, it would have clearly shown and stated
12 and we would have heard audibly the strip
13 search -- the felony strip search admonition to
14 the suspect, and that admonition goes something
15 to the effect of this is done when you conduct
16 a felony strip search, and if I recall the
17 facts of that case correctly, he had been
18 involved in a felony car pursuit that may or
19 may not have involved a weapon and/or drugs.

20 So I was conducting the felony
21 strip search, which means I was not the only
22 one there, there was a witness outside the
23 door, I believe that shows up in the video, but
24 prior to conducting a strip search you give an

1 admonition to the suspect saying, "Look, we're
2 doing this strip search because we have reason
3 to believe you may either have contraband
4 and/or a weapon on your person that I need to
5 recover. Until we complete this strip search I
6 have to assume that you're armed, so I need you
7 to follow the instructions that are given and
8 make no movements that are not instructed. If
9 you do make any movements that are not
10 instructed, I'm going to have to, for my safety
11 and yours, assume that you're trying to access
12 a weapon and I'm going to need to take you into
13 custody by whatever force necessary so that
14 neither one of us has to get hurt." Right?
15 That instruction is given. That's called the
16 strip search admonition.

17 That instruction was given on
18 that video that should have had audio and that
19 instruction was documented in a police report
20 that nobody ever referenced.

21 What you saw on the clip was an
22 argumentative, belligerent suspect that had
23 been warned several times to calm down and quit
24 moving around and not to make any movements or

1 he is going to have to be taken into custody,
2 and then he got up in a lunging toward me
3 manner and I took him into custody using
4 reasonable force.

5 It was examined by the people
6 that examine applications of force, it was
7 commonly knowledged and documented. In my
8 personal opinion it was leaked to the press
9 minus all those other details to make me look
10 bad.

11 And no matter how you use force,
12 it doesn't look good. And, to be honest,
13 nobody enjoys using force. It sucks. It
14 requires more documentation, more critical
15 circumspect of an already difficult job, and a
16 lot of times you get hurt, so. People don't
17 even think about that, but that's the truth.

18 Q. But there was no finding of
19 fault or anything by the Vallejo Police
20 Department --

21 A. No.

22 Q. -- is what you said, okay.

23 Prior to your departure from the
24 Vallejo PD there was a fatal shooting involving

1 you and Kevin Smith in August of 2003. What
2 was that incident?

3 A. That's exactly what you said it
4 was, there was a -- I didn't remember the name.
5 I still -- for some reason I don't remember his
6 name too well, but that was a car stop I had
7 nothing to do with but I was working on duty at
8 the time, it went south, meaning the suspect
9 resisted, produced a firearm, evaded less
10 lethal force to be taken into apprehension and
11 engaged the officers with gunfire, fled into a
12 children's park a block and a half or so away
13 through some residential area, one of the
14 junior officers tried to take him into custody
15 and was overpowered by the suspect. That
16 suspect then accessed that junior officer's
17 firearm, the firearm discharged in that
18 officer's holster.

19 I remember that officer
20 screaming, "He has got my gun, he has got my
21 gun," and then that suspect was engaged by both
22 Sergeant Gordon and myself with gunfire, and I
23 believe he was deceased on scene.

24 Q. Was there any finding of fault

1 by the Vallejo Police Department as a result of
2 the investigation?

3 A. No.

4 Q. Okay. Let's see, there was an
5 incident in 2010 involving Guy Jarreau, Jr.
6 Can you tell me what happened there?

7 A. Yes. My partner and I at that
8 time, that was Corporal Mark Nicole, had just
9 left a -- we had already talked about the
10 robbery sting operation that occurred in 2012.
11 Well, we had just left a similar operation that
12 turned out not to be a robbery so nothing
13 happened but we were set up for it in case it
14 did, and we were driving back from the location
15 of that failed sting operation and we drove by
16 a tattoo parlor, I think it was a tattoo
17 parlor, somewhere on Sonoma Boulevard there in
18 Central Vallejo, noticed a large group of
19 people, we were in a non-marked but patrol
20 vehicle, like a Crown Victoria that was a dark
21 color, I don't remember if it was black or gray
22 or something, but we went, so that nobody would
23 see us, we went around the corner and into a
24 vacant parking lot, because we had our tactical

1 gear on for this sting operation, and I
2 remember we were taking all of our gear off,
3 which included long rifles, heavy plates,
4 helmets, all that stuff, because we anticipated
5 an armed conflict in the robbery sting.

6 We got rid of all that, put it
7 in the trunk, and in what we called an alert
8 tone, which signifies an emergency incident
9 going on, came across the radio, and it was a
10 report of a man with a gun at the exact
11 location we had just passed that was like a
12 block and a half from us, and we responded.

13 We tried to coordinate a
14 response with the other element of our sting
15 operation, which was a different van full of
16 guys in the same unit, we tried to coordinate
17 it so that we could arrive at the same time but
18 we had communication issues with Nextels and
19 car radios and Channel 1 and the Channel 2 that
20 we frequently use for special operations.

21 So we wound up -- Mark Nicole
22 and I wound up arriving there first, and Mark
23 was stuck with the vehicle control and I was on
24 the passenger side, so I was the first one out.

1 As I stepped out, I was in a modified police
2 uniform, I had a vest on that identified me as
3 a police officer, you see a lot of cops wearing
4 them nowadays, but I had a vest on over like
5 khaki clothes, khaki BDUs, so to speak, with a
6 badge and all the police stuff that you see on
7 police guys and gals, the holstered weapon and
8 the whole nine.

9 I remember coming out of the
10 vehicle knowing it's an armed suspect, I had
11 the description of the suspect and I had just
12 seen that suspect about two minutes prior, so I
13 identified him immediately, and as I stepped
14 out of the vehicle I had my pistol in my hand
15 already because it was an armed conflict I was
16 about to engage in, I remember telling the
17 people at the scene, everybody get down, don't
18 move, and this one guy -- everybody complied,
19 but this one guy who had matched the suspect
20 description looked at me and he slowly started
21 walking away, which is really kind of weird
22 because most time people try to run, and as he
23 turned into the alley I saw the handle of a
24 pistol in his back pocket.

1 I have been around pistols a
2 long time, I can identify from 20 feet or yards
3 a pearl handled pistol, if you can imagine it
4 had an actual pearl handled pistol, and as he
5 ducked into the alleyway, and the report had
6 been that he had already been brandishing the
7 weapon so I was concerned with safety of the
8 public. There is a lot of residences as you go
9 down that alleyway. Also concerned for myself
10 because I knew it was kind of a one-on-one
11 thing.

12 Mark Nicole was stuck trying to
13 renegotiate the position in the vehicle. It
14 was heavy traffic. I knew the guy knew I was
15 there and I knew he knew I was following him,
16 and I was concerned that as I turned the corner
17 to get my eyeballs on him, we might be engaged
18 in a gunfight, but I also didn't want him to
19 get out of the area before we could set up a
20 primer because apparently he had already been
21 brandishing this thing, and it was like 2:00 or
22 3 o'clock in the afternoon, it was high
23 traffic, people getting out of school. I think
24 it was a school day.

1 So I was going over scenarios in
2 my head as I was approaching this corner and I
3 knew he knew I was chasing him because we made
4 eye contact, and I had told myself, you know
5 what -- I got on the Nextel as I was chasing
6 him trying to tell people where to go to cut
7 him off because I didn't want him getting out
8 of there, and I told myself, look, what I
9 expect and what I hope is that I see this guy
10 going and it's nothing but feet and elbows, you
11 know, and he is trying to be feet and he runs
12 into another cop and they get him off safely,
13 right, but what I need to be prepared for is
14 based on him just strolling into this alley, he
15 didn't look like he was going to be very far,
16 so now I got to be concerned he's got a
17 position of advantage on me, when I come around
18 this corner, I'm going to get shot. So I came
19 up with a quick plan in my head, which is one
20 of the things they try to train us to do, and I
21 knew there was vehicles and a traffic jam on
22 the other side of me at this alley, so if I was
23 to receive gunfire, it wasn't just an
24 opportunity for me to get shot and killed, it

1 was an opportunity for people in the vehicles
2 behind me to get shot and killed, but at some
3 point you got to put your Kevlar in between you
4 and other people, and that's just the way it
5 is.

6 So I made a decision to approach
7 that corner with very heavy footfalls so that
8 he could predict me turning that corner, if he
9 was nearby, which I did, and then I paused a
10 second and then instead of turning the corner
11 at the normal height of my human body, being
12 about 6 foot, 6 foot 1, I squatted down to
13 about a 4 foot and did what they call a quick
14 peek, because if he was going to engage me, I
15 wanted him to have a minimal target to hit and
16 I didn't want my head to be in the place a head
17 shot would normally go, so I turned quickly
18 around the corner slowly, and I had already
19 told myself what I hope was to see him trying
20 to go over a fence and then I could tell my
21 buddies where to get him at, but if he is not
22 running and he is a few feet away and he has
23 still got a weapon in his hand, there is pretty
24 much one reason he is going to be doing that,

1 and when I turned that corner with a quick peek
2 he was doing exactly what I feared that he was
3 going to do, he was turning on me and he was
4 pulling a pearl handled revolver out of his
5 waistband. So I fired twice.

6 I don't think the first round
7 hit him, but I'm pretty sure the second one
8 did, because he went down, and then I
9 approached him and I had a conversation with
10 him.

11 Q. And, wait, so but -- okay. So
12 you had a conversation with him?

13 A. Yeah.

14 Q. Okay.

15 MS. KNIGHT: Do you need a
16 minute?

17 THE WITNESS: Yeah, I could use
18 a minute.

19 MS. KNIGHT: Yeah, can we take a
20 quick break, Amanda?

21 MS. LORENTSON: Of course.
22 Sure.

23 MS. KNIGHT: We just need like
24 five minutes.

1			-	-	-
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2 (Whereupon there was a recess in
3 the proceeding.)

4			-	-	-
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5 BY MS. LORENTSON:

6 Q. There was an investigation into
7 this shooting incident with Guy Jarreau, right?

8 | A. Yes, ma'am.

9 Q. And then there was a lawsuit
10 that followed. In the lawsuit his family
11 claimed that he was holding a green cup when he
12 was shot and had his hands in the air. Is that
13 inaccurate then?

14	A. Yes.
----	---------

15 Q. Where would the green cup, hands
16 in the air thing come from?

17 A. I don't know. To my knowledge,
18 the only people there was myself and Guy
19 Jarreau. I believe sometime later a witness
20 was located that saw the whole thing, but.

21 He did have a cup in one hand
22 and his other hand was on a gun that got -- it
23 was coming out of his waistband, so.

24 Q. So he has one hand up in the air

1 with a cup and in the other hand he is reaching
2 for a gun behind his back or he is pointing his
3 gun?

4 A. Well, I never said he had his
5 hand up in the air with a cup.

6 Q. Okay.

7 A. I know that when I fired my
8 weapon, he had his right hand in a shooting
9 position on his pistol and it was being pulled
10 out of his right hip waistband or maybe from
11 his right hip pocket in my direction when I
12 decided to fire to prevent him from getting
13 that weapon up and on to me to discharge
14 rounds. It could have killed me or the person
15 behind me in their vehicles.

16 That cup I noticed, because all
17 of my attention was on that hand with the gun
18 in it, and his location and proximity when I
19 turned that corner versus someone that would be
20 trying to flee, because he was only about 10
21 yards and I gave him plenty of time to be 30,
22 40 yards away, I focused on that right hand on
23 that gun, it was coming up out of the waistband
24 the way I've seen it happen over 1,000 times at

1 the range, I decided to fire.

2 It wasn't until he hit the
3 ground that I noticed the cup in his left hand
4 hit the ground, and I couldn't even tell you
5 it's green. I don't know if that's accurate.

6 Q. You said that you had a
7 conversation with him, but what was the nature
8 of the conversation?

9 A. They were instructions for him
10 not to get -- because when I first came upon
11 him, I was solo, so I kept my weapon trained on
12 him in case he had tried to re-access that
13 weapon, which at some course in that engagement
14 the hammer on that pistol became entangled with
15 one of his belt loops, because I remember when
16 we directed whoever responded to disarm him or
17 it might even have been -- you know, I might
18 have kicked it loose, somebody arrived to
19 handcuff him because we kept him at gunpoint,
20 and that hammer of his pistol had somehow
21 become entangled with his belt loop.

22 I kept giving him directions not
23 to put his hands down there because we'd have
24 to shoot him again, which he didn't and we

1 didn't, until he was handcuffed. And once he
2 was handcuffed, I tried to get his name from
3 him, I tried to tell him that he would be okay
4 because we had the cop -- or the ambulance
5 coming, and I -- in my mind he had only been
6 hit once and it's very rare, you know, that one
7 torso shot from a pistol would have lethal
8 results, so I was trying to encourage him, and
9 it wasn't until later that I found out he had
10 died from his injuries.

11 Q. Are there any other use-of-force
12 incidents that you were involved with
13 professionally?

14 A. I can't count. I mean, that's
15 too broad because even --

16 Q. Okay. Sure. How many
17 officer-involved shootings were you personally
18 involved in?

19 A. I guess for lack of a -- well,
20 let's call me an actor, okay --

21 Q. Sure.

22 A. -- because that's what they
23 called us in investigations.

24 I've been an actor in four

1 officer-involved shootings, one in Concord,
2 three in Vallejo.

3 Q. And then the three I believe we
4 spoke about, that was -- I think, actually, we
5 talked about Guy, and then you said there was
6 one through a windshield or in a car?

7 A. No; I was in a vehicle, I fired
8 from the passenger side through the open
9 passenger window with a rifle.

10 Q. When was that?

11 A. 2012.

12 Q. And can you please tell me about
13 that incident?

14 A. We have already discussed this
15 incident.

16 Q. We did?

17 A. Yeah. The suspect's name was
18 David Webb, if I recall correctly, and it was
19 that reverse robbery sting we were doing.

20 Q. Understood. Okay. Through the
21 car. I didn't make the connection that was
22 through a car.

23 A. Yeah. It was from a vehicle, it
24 wasn't through a car. I'm not trying to be

1 nitpicky but, you know --

2 Q. I get it.

3 A. -- words matter.

4 Q. Of course.

5 A. So, yeah, it was from a vehicle
6 where I was part of the arrest team and it was
7 through an open passenger side window of the
8 front seat.

9 MS. LORENTSON: I think I might
10 be almost done.

11 Just so I can anticipate,
12 Katelyn or Jacob, are you going to have
13 any questions?

14 MS. KNIGHT: Yeah, just a few.

15 MR. GRAHAM: Yeah, just a
16 couple.

17 MS. LORENTSON: Okay. Why don't
18 you guys go and then I'll look at my
19 notes while you're --

20 MR. GRAHAM: You go ahead,
21 Katelyn.

22 MS. KNIGHT: Thanks.

23 BY MS. KNIGHT:

24 Q. Do you have a specific memory of

1 having bent Jarrett Tonn's badge?

2 A. A specific memory, no, I do not.

3 Q. Do you have a specific memory of
4 having bent Sanjay Ramrakha's badge?

5 A. No, I do not.

6 Q. The Critical Incident Review you
7 were discussing earlier of the officer-involved
8 shooting involving Tonn and Jones where officer
9 Tonn fired his weapon, do you recall the
10 suspect in that OIS?

11 A. I think it might be Brown is her
12 last name.

13 Q. Jerrell Brown, does that sound
14 right?

15 A. Yes, yes, ma'am.

16 MS. KNIGHT: Okay. So those
17 were what I have. Jacob?

18 BY MR. GRAHAM:

19 Q. Yeah, so Katelyn asked one of my
20 questions. The only other one I have for you,
21 Mr. Tribble, is, do you have a specific
22 recollection of witnessing Tonn's badge being
23 bent?

24 A. No.

1 MR. GRAHAM: Okay. That's all I
2 have. Thank you.

3 MS. LORENTSON: I'm just looking
4 through my notes. Bear with me for a
5 minute.

6 BY MS. LORENTSON:

7 Q. Josh Coleman bent Zack
8 Jacobson's badge, correct? You witnessed that?

9 A. I thought I witnessed that, but
10 in retrospect I think I may have been
11 misinterpreting what I saw.

12 Q. What did you see then? What now
13 do you think that you saw?

14 A. Well, what I saw was Coleman
15 asked -- we were at the Relay Club, Coleman was
16 on duty, I was on duty, Zack was off duty,
17 Coleman said, "Let me see your badge," he
18 looked at it, I thought he had both hands on
19 it, like I had when I bent badges, and then he
20 acknowledged a bent badge and handed it back to
21 Zack. That's what I saw.

22 I originally thought he had bent
23 it, because I didn't know until I went to
24 Healy's courtroom that anyone else had been

1 doing any badge bending. So I thought Zack --
2 or Josh had basically done what I did to him,
3 because everything else looked the same and his
4 hands were in the same position.

5 It wasn't until I found out that
6 somebody else may have bent Zack's badge at
7 Healy's courtroom that I realized I might have
8 misinterpreted what I saw.

9 Q. Okay. I want to go back very
10 briefly to Travis Aspegren, which I know I'm
11 butchering, but my understanding of the reason
12 why he was brought in to testify or to give a
13 statement to Giordano is because he
14 acknowledged about an interaction with Ryan
15 McMahon and another individual at the firing
16 range I guess, and Ryan did not want to switch
17 guns with another individual because Ryan said
18 that his gun had two bodies on it. Do you know
19 what that is referring to?

20 A. I have no knowledge of that
21 exchange whatsoever. This is the first time
22 I've ever heard of that.

23 Q. Have you ever heard an officer
24 use that terminology, "I have a body on this

1 gun" or "There are a couple bodies on this gun"
2 or two bodies, have you ever heard anything
3 like that at all?

4 A. Yeah.

5 Q. Okay. And what does that mean?

6 A. I don't know that it's come from
7 officers or whomever used weapons in the line
8 of combat or duty, but frequently that's
9 referred to as if a gun has been used in
10 service, not necessarily whether it's been a
11 lethal use but the gun has been used by the
12 officer or combatant in the line of duty.

13 Q. Is that something that you would
14 have addressed if you heard someone talking
15 about their gun having bodies on it?

16 A. When I was less mature, probably
17 not, but as I got later in my career I probably
18 said, "Hey, we don't talk like that," you know,
19 "It's not a good example."

20 And just like this case is
21 evidence of, everything can be misconstrued.
22 It's not a good idea to provide anybody
23 ammunition to allude things that are not
24 correct.

1 Q. Understood. Misconstruing
2 aside, as you sit here today, I know you -- you
3 know, we've talked a lot about your belief and
4 what some practices mean and what they don't
5 mean and you have taken a lot of blame for the
6 badge bending, but looking back on, you know,
7 the badge bending procedure, do you think there
8 are things that others in the department could
9 have done besides yourself to stop this
10 behavior or to address it before it became this
11 problem that it has now become?

12 MS. KNIGHT: Objection, vague,
13 speculation, incomplete hypothetical,
14 foundation.

15 MS. LORENTSON: Okay. Sure.

16 BY MS. LORENTSON:

17 Q. It's very clear that at some
18 point there was some suggestion to you that
19 this was all of your fault or was that an
20 internal process, like you internally decided
21 that all of this was on you? I really just --
22 genuinely, I would love to know.

23 A. It may be my ego, but I do
24 believe that I was the source of this thing and

1 I feel like I'm responsible for all of the
2 negative consequences that it may have brought.

3 Q. All of them, every single
4 negative consequence is --

5 A. None of this would have occurred
6 if it had not been for my, for lack of a better
7 term, boneheaded idea with Golinveaux in a dark
8 place sometime in 2000 when a couple of guys
9 were talking about some hairy stuff they had
10 been through and how we could help each other
11 out, if I hadn't have done that and brought it
12 to the Police Department, none of this would be
13 occurring.

14 Q. Well, but by "this," you mean
15 just like the negative publicity about badge
16 bending, that's how I'm taking what you're
17 saying, like all of the bad stuff you're
18 talking about is just the negative press,
19 right?

20 A. That's -- that's what I'm
21 talking about, yes.

22 Q. And so you feel that all of
23 the -- you know, your decisionmaking and
24 thought process and your choice back then to

1 bend a badge, the only negative repercussion
2 was bad press for the Police Department and
3 that's all the bad stuff you're talking about?

4 MS. KNIGHT: Misstates
5 testimony. Go ahead.

6 MS. LORENTSON: Then he can
7 restate it. But, Katelyn, you don't
8 need to coach him. He is a grown man.

9 THE WITNESS: I'm getting gray
10 too. Thanks.

11 I believe everything that
12 occurred forcewise is completely
13 legitimate and would have happened in
14 this department had I ever shown up or
15 not. I think the negative connotation
16 of the badge bending, being associated
17 with those things, is solely on me
18 because I brought that.

19 BY MS. LORENTSON:

20 Q. But how did that association
21 happen? Like if one is just supporting a
22 police officer that, you know, had to take --
23 if what you're saying is accurate and everyone
24 felt the same way, that it's just supporting an

1 officer who had to do a really hard thing in
2 the line of duty, then how did that cross paths
3 with the use of force that we've been talking
4 about?

5 MS. KNIGHT: Objection,
6 speculation, foundation.

7 MS. LORENTSON: He just said it,
8 Katelyn. And, again, you don't need to
9 coach him.

10 MS. KNIGHT: I'm not coaching.
11 I'm just providing --

12 MS. LORENTSON: Well,
13 speculation is actually not an actual
14 objection in California. So I had to
15 look that up on the 45-minute lunch
16 break, but it's not a real objection.

17 MS. KNIGHT: Well, he is
18 required to testify to things --

19 MS. LORENTSON: I don't --
20 again, please do not coach your
21 witness. I'll ask the question again.

22 BY MS. LORENTSON:

23 Q. Your opinion is that you have
24 brought on all of this negative publicity to

1 the department because of the badge bending,
2 you have made a correlation to that being
3 intertwined with the excessive force. How did
4 that correlation come to be, in your opinion,
5 based on your belief that you were a part of
6 that?

7 MS. KNIGHT: Objection,
8 misstates testimony, foundation,
9 speculation.

10 MS. LORENTSON: Cool.

11 THE WITNESS: Can I answer?

12 MS. KNIGHT: You can, yeah. I
13 am not going to instruct you not to.
14 Go ahead.

15 THE WITNESS: I have a -- not to
16 be rude, but I do take issue with your
17 allegation that there is any
18 correlation with excessive force,
19 because I have been around this
20 department for almost all of these
21 events that we've talked about, and
22 every one of them has not only been
23 investigated by the department but by
24 the District Attorney's Office, the